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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,376	10/22/2001	Richard P. Stoyanoff	LEC 0156 PUS	7272
22045	7590	05/17/2004	EXAMINER	
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			LEO, LEONARD R	
			ART UNIT	PAPER NUMBER
			3753	

DATE MAILED: 05/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/004,376	STOYNOFF ET AL. 
Examiner	Art Unit	
Leonard R. Leo	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 February 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,4-6,13-16,18-22 and 24-26 is/are pending in the application.
- 4a) Of the above claim(s) 19-22 and 24-26 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,4-6,13-16 and 18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

The amendment filed on February 23, 2004 has been entered. Claim 23 is cancelled, claims 1, 4-6, 13-16, 18-22 and 24-26 are pending, and claims 19-22 and 24-26 remain withdrawn.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 4-6, 13-14, 16 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 depends on claim 20, which in turn depends on claim 1. Therefore, the scope of the claim cannot be determined. The claims are not linking claims.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martins et al in view of Sugimoto et al (5,992,514) or Yamanaka et al.

Martins et al discloses all the claimed limitations except the thermal break having a length exceeding one convolution.

Sugimoto et al (5,992,514) or Yamanaka et al discloses a multiple core heat exchanger comprising a condenser core 2 having a plurality of first tubes 21 and louvered fins 22, and a radiator core 3 having a plurality of tubes 31 and louvered fins 32; where the fins are integral and formed with thermal breaks 47 having a length exceeding one convolution (Figure 7-8 of Sugimoto et al and Figures 3-4 of Yamanaka et al) for the purpose of minimizing heat transfer.

Since Martins et al and Sugimoto et al (5,992,514) or Yamanaka et al are both from the same field of endeavor and/or analogous art, the purpose disclosed by Sugimoto et al (5,992,514) or Yamanaka et al would have been recognized in the pertinent art of Martins et al.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Martins et al thermal breaks having a length exceeding one convolution for the purpose of minimizing heat transfer as recognized by Sugimoto et al (5,992,514) or Yamanaka et al.

***Response to Arguments***

The objection to claim 14 is withdrawn, since the claim ultimately depends on claim 1, which is rejected under 35 USC 112, first paragraph above.

Applicant's arguments have been fully considered but they are not persuasive.

The Examiner acknowledges applicant's traversal of the election by original presentation. A punching operation does not necessarily produce scrap material. Punch tools have several forms, one of which is a blade to form slits or cuts in sheet material without producing scrap material. Therefore, the product may be produced by a materially different apparatus. Even though applicant disagrees with the proposed apparatus, applicant cannot dispute that tools other

than rollers may be employed to produce a slit without material removal. Arguendo, lasers are also known for cutting sheet metal.

Applicant's misrepresentation of Martins et al is not well taken. Martins et al discloses (column 1, lines 54-57) "The precise subject of the invention is a method of manufacturing fins for a heat-exchange module including several exchangers which *eliminates the production of scrap material*. (emphasis added)" Martins et al discloses two embodiments for forming thermal breaks in a fin without material removal, i.e. Figures 2-6 and Figures 7-10. In each embodiment, slits 22 are initially formed in the sheet metal, then the sheet metal strip is widened from the initial width L1 to a final width L2. The widening of the sheet metal strip is read as "displacing" the opposed edges of the slit 22. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The modification taught by Sugimoto et al (5,992,514) or Yamanaka et al is deemed correct for lack of any argument by applicant.

No further comments are deemed necessary at this time.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry of a general nature, relating to the status of this application or clerical nature (i.e. missing or incomplete references, missing or incomplete Office actions or forms) should be directed to the Technology Center 3700 Customer Service whose telephone number is (703) 306-5648. Status of the application may also be obtained from the Internet: <http://pair.uspto.gov/cgi-bin/final/home.pl>

Any inquiry concerning this Office action should be directed to Leonard R. Leo whose telephone number is (703) 308-2611.



LEONARD R. LEO  
PRIMARY EXAMINER  
ART UNIT 3753

May 15, 2004